

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 15-40566  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

October 22, 2015

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MISAEEL GARCIA-DE LA CRUZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:14-CR-878-1

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Before HIGGINBOTHAM, DENNIS, and HIGGINSON, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Misael Garcia-De La Cruz raises an argument that he concedes is foreclosed by *United States v. Rodriguez*, 711 F.3d 541, 562-63 & n.28 (5th Cir. 2013) (en banc), in which we held that the generic, contemporary definition of “sexual abuse of a minor” does not require the age of consent to be below 17 years old and does not include the asserted age-differential requirement. He also raises an argument that he

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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concedes is foreclosed by *United States v. Elizondo-Hernandez*, 755 F.3d 779, 782 (5th Cir. 2014), *cert. denied*, 135 S. Ct. 1011 (2015), which held that the Texas offense of indecency with a child by contact satisfied the generic definition of “sexual abuse of minor.” Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.